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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,505	03/16/2004	Michael Christopher Raftery	LCRL121839	1870
26389 7590 04/02/2008 CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347				
EXAMINER				
WENDELL, MARK R				
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3635				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,505

Applicant(s)

RAFTERY ET AL.

Examiner

MARK R. WENDELL

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

The office action dated 6/27/2007 is copied below. The arguments and amendments were found to be not persuasive and did not differentiate the claimed subject matter from the prior art of record in a patentable sense. The examiners response to arguments can be found below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-19, 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han (KR 10-2002-0021093) in view of Contevida (US 3396502) and Sachs et al. (US 2002/0026764). Han discloses and illustrates in Figures 1 and 3 a method for constructing a multistory concrete shear core (21b) building comprising the steps of:

- Erecting a steel subassembly (23, 25, 27) for a concrete shear core (21b) with the subassembly including a plurality of preassembled segments including vertical columns (23), horizontal beams (25), and a rebar screen (3);

- Erecting a peripheral structure steel assembly (31, 34) including a plurality of vertical columns (not pictured) and horizontal columns (9, 31). The examiner notes that although the vertical columns are not illustrated within the figures, it is inherent that they would be necessary to construct the high-rise structure disclosed by Han.

Han does not disclose installing a plurality of floor structures, positioning an inner and outer form in order to define a volume to receive concrete pour, or the act of pouring concrete into the defined volume. However, Contevita discloses in Figures 1 and 2 installing a plurality of floor structures (20) supported by a steel subassembly (12, 14) and peripheral structure (18). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the method steps of erecting peripheral and steel subassembly structures of Han with the step of installing a floor structure of Contevita in order to provide a floor / ceiling structure for inhabitants to walk on and quarters to live / work in. The examiner notes that although the vertical columns mentioned above are not illustrated in Han, they are illustrated in Contevita as item 18 in Figure 1.

Neither Han nor Contevita disclose positioning an inner and outer form in order to define a volume to receive concrete pour, or the act of pouring concrete into the defined volume. However, Sachs illustrate in Figure 8 the method steps of disclose positioning an inner and outer form in order to define a volume to receive concrete pour (98) and the act of pouring concrete into the defined volume (100). The examiner notes that Sachs refers to the concrete as filler material, however on Page 2, column 2, paragraph 34, lines 9-10, Sachs says that the filler material is preferably concrete. It would have

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been obvious to one of ordinary skill in the art at the time the invention was made, with the motivation of providing concrete walls within a building, to combine the method steps of Han and Contevita described above with the act of forming a volume to pour concrete and actually pouring the concrete. The examiner notes that it is common knowledge within the art of building construction to form and pour concrete into a mold to construct concrete walls, floors, dividers, etc.

Regarding claim 10, Contevita illustrates in Figure 1 a steel erection structure (10) and framing structure of at least 7 floors. The examiner notes that the steps of vertically extending the steel structure, repositioning the inner and outer forms, and pouring additional concrete to form subsequent floors is a mere duplication of the method steps claimed in claim 1.

Regarding claim 15, the additional method step of preassembling a plurality of steel erection segments is disclosed within the abstract of Han as step C, "assembling the steel frame beam on the anchor –connecting member. This step is done before pouring concrete and integrating forms into the structure, therefore constitutes "preassembling."

Regarding claims 2, 11 and 16, Han illustrates in Figure 3 the first plurality of vertical columns (23) disposed within the volume (21b) defined by the inner and outer form.

Regarding claims 3, 12 and 17, Contevita illustrates in Figures 1 and 2 a steel erection subassembly sized to support at least ten floors.

Regarding claims 4 and 18, Han illustrates in Figure 3 shows the steel erection subassembly being built from a plurality of segments (vertical beams 23, horizontal beams 25, connectors 27). The examiner notes that although a specific height is not given, the segments (23, 25) appear to be approximately two floors in height.

Regarding claim 5, Figure 3 of Han illustrates the rebar screen (3) being fixedly attached to a horizontal beam (31) within the concrete (21b).

Regarding claims 7 and 21, the specification does not disclose erecting six additional subassemblies, however it would have been obvious to one of ordinary skill in the art at the time of invention to erect at least six additional steel assemblies and peripheral structures, since it has been held that mere duplication of the essential working parts of a device, or structure, involves only routine skill in the art (St. Regis Paper Co. v. Bemis Co., 193 USPQ 8). It is also obvious to one of ordinary skill in the art to construct multiple steel assemblies and peripheral structure based upon the size of the building being constructed. The more massive the building the more support it will need, thus six or more steel assemblies and peripheral structures would be necessary.

Regarding claims 8 and 22, Han Figure 3 illustrates horizontal beams (31) adjacent the outer form (34b) and being lockingly engaged within the concrete (21b). The examiner also notes that the horizontal beam (31) is a structural wide flange beam.

Regarding claims 9 and 23, the structure of Han in view of Contevita and Sachs is designed to support the completed multistory concrete shear core building. The examiner notes that claim 9 does not set forth, or limit, the structure of claim 1 from which it depends.

Regarding claims 13, 14 and 19, Han illustrates in Figure 3 a steel erection structure being built from a plurality of one-tier segments containing vertical (23) and horizontal columns (25). Han also illustrates in Figure 3 a plurality of steel reinforcing bars (3).

Claims 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Han (KR 10-2002-0021093) in view of Contevita (US 3396502) and Sachs et al. (US 2002/0026764) as applied to claims 1-5, 7-19, 21-23 above, and further in view of Lundmark (US 5012627). It is described above what is disclosed by Han in view of Contevita and Sachs, however none of the references teach the inner form being at least two floors in height and the outer form being one floor in height. However Lundmark illustrates in Figure 8 an inner form (27) being two stories in height and an outer form (29) having a height of about 1 story. It would have been obvious to one having ordinary skill in the art at the time of invention to combine the structure of Han as

modified by Contevita and Sachs with the dimensions of Lundmark to expedite and simplify the concrete molding process.

Response to Arguments

Applicant's arguments filed 1/2/2008 have been fully considered but they are not persuasive. The examiner notes that the amended limitations of claims 1 and 10, "a plurality of preassembled segments adapted to be lifted as a unit" adds no distinguishing feature to be allowable over the prior art of record. The beams, columns, and rebar structure of Han in view of Contevita and Sachs are considered to be preassembled segments. The aforementioned individual segments are preassembled in and of themselves and the examiner further notes that there are no additional steps related to the method of preassembly of the segments found in the claims or specification that would lead to patentable distinction over the prior art. The examiner also notes that it would be obvious to preassemble multiple parts together at ground level or offsite before assembling them to the existing onsite structure. The method of preassembly is well known in the building construction, as well as various other arts. This method is known to save time, energy and other valuable resources.

Regarding the limitation of the segments "adapted to be lifted as a unit," the examiner notes that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense (In re Hutchison, 69 USPQ

138). The beam, column and rebar sections of the prior art, although not positively cited, are capable of being lifted as a unit.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MARK R. WENDELL** whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot/
Supervisory Patent Examiner, Art
Unit 3635

/M. R. W./
Examiner, Art Unit 3635
February 12, 2008